IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

C.W.P. No.850 of 2007.

Date of decision: 13-9-2007.

Dharampur Basholu Sampark Marg ....Petitioner

-Versus-

Union of India and others ….Respondents

Coram:

The Hon'ble Mr.Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice V.K.Ahuja, Judge.

Whether approved for reporting? No

For the Petitioners: Mr.B.C.Negi, counsel for the petitioner.

For the respondents: Mr.M.S.Chandel, A.G. with Mr.A.Burathoki, Dy.A.G. for respondents No.2 to 4.
Mr.Rakesh Jaswal, counsel for respondent No.5.

Deepak Gupta, J.

By means of this writ petition, the petitioner has prayed that the respondents be directed to take appropriate steps to construct/repair the bridge over the Railway line on the Dharampur-Subathu road.

We had issued notice to the respondents. Both the State as well as the Railways have come to the conclusion that the bridge cannot be repaired and a new bridge will have to be constructed on the road. According to the Railways since the bridge has to go over the railway line the job of construction of the bridge was to be done by the railways itself at the expense of the State Government. We can

understand that the railways is interested that the bridge is designed and constructed in such a fashion that the bridge does not obstruct the railway line or pose a danger to the railway line in any manner. However, we do not understand how if the bridge belongs to the State Government and is to be constructed by it, out of its own funds the railways should have anything more to do with it other than the approval of the designs and structural drawings.

We had passed a detailed order on 22.8.2007 in which we had directed that a meeting be held between the Principal Secretary-cum-Financial Commissioner (PWD) and the Divisional Railway Manager, Ambala Division. The minutes of this meeting have been placed on record as Annexure R-1. In this meeting both the State Government and the Railways have agreed that the bridge in question shall be constructed by the State Government and the cost thereof shall be borne by the State Government.

We find that in the minutes it is mentioned that the Divisional Manager, Railways, Ambala Division was of the opinion that even if the bridge is constructed by the State Government then also supervision charges and departmental charges as fixed by the Railway Board from time to time is leviable. He however stated that he will request the Railways to waive off the departmental charges payable to the railways.

There is no doubt in our mind that in case the bridge has to be constructed by the PWD and maintained by the PWD there is no question of the State of H.P. paying any departmental charges to the Railways and we direct accordingly.

Further we are also of the considered view that other than the actual amount spent by the railways on the approval of the design and the structural drawings and supervision done, it shall not be entitled to any further amount. The Railways shall only be entitled to the actual amount incurred by it on supervising the construction of the bridge and only that portion of the bridge which goes over the railway line.

It would be important to note that once the construction of the bridge starts, traffic on the Dharampur-Subathu road will virtually come to a halt. Subathu is an important cantonment and houses the Gorkha Regimental Centre. This road cannot be blocked for a very long time since the only alternate route by Solan is much longer. We, therefore, direct that the PWD shall prepare the detailed designs/structural drawings of the bridge on or before 31st October, 2007. The Superintending Engineer concerned shall sent one copy of the drawings to the Divisional Manager, Railways, Ambala Division by registered post or by hand on or before the said date. It shall be the duty of the Divisional Manager, Railways, Ambala Division to ensure that the designs are sent for approval and necessary orders obtained thereupon latest by 20th November, 2007. Thereafter, the process of tendering shall be started so that the same can be completed by 31st December, 2007. It shall be ensured that the bridge is completed by 31st May, 2008.

The writ petition is disposed of in the aforesaid terms.

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(Deepak Gupta),
Judge

Sept. 13, 2007 **(V.K. Ahuja)**
PV **Judge.**